

receive compensation at a rate equal to that paid a GS-18 under the General Schedule contained in section 5332, of title 5, the vice chairman shall receive compensation at a rate equal to that paid a GS-17 under such General Schedule, and all other members shall receive compensation at a rate equal to that paid a GS-16 under such General Schedule. Such positions shall be in addition to the number of positions which may be placed in GS-16, GS-17, and GS-18 of such General Schedule under existing law."

Subsec. (b)(2). Pub. L. 101-509, §529 [title I, §104(d)(4)(B)], substituted "The chairman and all other members of such board shall receive compensation, at the daily equivalent of the rates determined under section 5372a of title 5, for each day they are engaged in the actual performance of their duties as members of the board." for "The chairman of such board shall receive compensation at a rate equal to the daily rate paid a GS-18 under the General Schedule contained in section 5332, of title 5, for each day he is engaged in the actual performance of his duties as a member of such board. All other members of such board shall receive compensation at a rate equal to the daily rate paid a GS-16 under such General Schedule for each day they are engaged in the actual performance of their duties as members of such board."

Subsec. (g)(3). Pub. L. 101-552 added par. (3).

1982—Subsec. (d). Pub. L. 97-164, §160(a)(15), substituted "United States Claims Court" for "Court of Claims".

Subsec. (g)(1)(A). Pub. L. 97-164, §156(1), substituted "United States Court of Appeals for the Federal Circuit" for "Court of Claims".

Subsec. (g)(1)(B). Pub. L. 97-164, §156(2), substituted "Court of Appeals for the Federal Circuit for judicial review under section 1295 of title 28" for "United States Court of Claims for judicial review, under section 2510 of title 28".

#### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of this title.

#### EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-509 effective on such date as the President shall determine, but not earlier than 90 days, and not later than 180 days, after Nov. 5, 1990, see section 529 [title III, §305] of Pub. L. 101-509, set out as a note under section 5301 of Title 5, Government Organization and Employees.

#### EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 601, 603, 606, 609 of this title; title 5 sections 504, 5102, 5372a, 9003; title 22 section 3862; title 25 section 450m-1; title 28 sections 1295, 1346.

### § 608. Small claims

#### (a) Accelerated disposition of appeals

The rules of each agency board shall include a procedure for the expedited disposition of any appeal from a decision of a contracting officer where the amount in dispute is \$50,000 or less. The small claims procedure shall be applicable at the sole election of the contractor.

#### (b) Simplified rules of procedure

The small claims procedure shall provide for simplified rules of procedure to facilitate the decision of any appeal thereunder. Such appeals may be decided by a single member of the agency board with such concurrences as may be provided by rule or regulation.

#### (c) Time of decision

Appeals under the small claims procedure shall be resolved, whenever possible, within one hundred twenty days from the date on which the contractor elects to utilize such procedure.

#### (d) Finality of decision

A decision against the Government or the contractor reached under the small claims procedure shall be final and conclusive and shall not be set aside except in cases of fraud.

#### (e) Effect of decision

Administrative determinations and final decisions under this section shall have no value as precedent for future cases under this chapter.

#### (f) Review of requisite amount in controversy

The Administrator is authorized to review at least every three years, beginning with the third year after November 1, 1978, the dollar amount defined in subsection (a) of this section as a small claim, and based upon economic indexes selected by the Administrator adjust that level accordingly.

(Pub. L. 95-563, §9, Nov. 1, 1978, 92 Stat. 2387; Pub. L. 103-355, title II, §2351(d), Oct. 13, 1994, 108 Stat. 3322.)

#### AMENDMENTS

1994—Subsec. (a). Pub. L. 103-355 substituted "\$50,000" for "\$10,000".

#### EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of this title.

### § 609. Judicial review of board decisions

#### (a) Actions in United States Court of Federal Claims; district court actions; time for filing

(1) Except as provided in paragraph (2), and in lieu of appealing the decision of the contracting officer under section 605 of this title to an agency board, a contractor may bring an action directly on the claim in the United States Court of Federal Claims, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(2) In the case of an action against the Tennessee Valley Authority, the contractor may only bring an action directly on the claim in a United States district court pursuant to section 1337 of title 28, notwithstanding any contract provision, regulation, or rule of law to the contrary.

(3) Any action under paragraph (1) or (2) shall be filed within twelve months from the date of the receipt by the contractor of the decision of the contracting officer concerning the claim, and shall proceed de novo in accordance with the rules of the appropriate court.

#### (b) Finality of board decision

In the event of an appeal by a contractor or the Government from a decision of any agency

board pursuant to section 607 of this title, notwithstanding any contract provision, regulation, or rules of law to the contrary, the decision of the agency board on any question of law shall not be final or conclusive, but the decision on any question of fact shall be final and conclusive and shall not be set aside unless the decision is fraudulent, or arbitrary, or capricious, or so grossly erroneous as to necessarily imply bad faith, or if such decision is not supported by substantial evidence.

**(c) Remand or retention of case**

In any appeal by a contractor or the Government from a decision of an agency board pursuant to section 607 of this title, the court may render an opinion and judgement and remand the case for further action by the agency board or by the executive agency as appropriate, with such direction as the court considers just and proper.

**(d) Consolidation**

If two or more suits arising from one contract are filed in the United States Court of Federal Claims and one or more agency boards, for the convenience of parties or witnesses or in the interest of justice, the United States Court of Federal Claims may order the consolidation of such suits in that court or transfer any suits to or among the agency boards involved.

**(e) Judgments as to fewer than all claims**

In any suit filed pursuant to this chapter involving two or more claims, counterclaims, cross-claims, or third-party claims, and where a portion of one such claim can be divided for purposes of decision or judgment, and in any such suit where multiple parties are involved, the court, whenever such action is appropriate, may enter a judgment as to one or more but fewer than all of the claims, portions thereof, or parties.

**(f) Advisory opinions**

(1) Whenever an action involving an issue described in paragraph (2) is pending in a district court of the United States, the district court may request a board of contract appeals to provide the court with an advisory opinion on the matters of contract interpretation at issue.

(2) An issue referred to in paragraph (1) is any issue that could be the proper subject of a final decision of a contracting officer appealable under this chapter.

(3) A district court shall direct any request under paragraph (1) to the board of contract appeals having jurisdiction under this chapter to adjudicate appeals of contract claims under the contract or contracts being interpreted by the court.

(4) After receiving a request for an advisory opinion under paragraph (1), a board of contract appeals shall provide the advisory opinion in a timely manner to the district court making the request.

(Pub. L. 95-563, §10, Nov. 1, 1978, 92 Stat. 2388; Pub. L. 97-164, title I, §§157, 160(a)(15), 161(10), Apr. 2, 1982, 96 Stat. 47-49; Pub. L. 102-572, title IX, §902(b)(1), Oct. 29, 1992, 106 Stat. 4516; Pub. L. 103-355, title II, §2354, Oct. 13, 1994, 108 Stat. 3323.)

AMENDMENTS

1994—Subsec. (f). Pub. L. 103-355 added subsec. (f).  
1992—Subsecs. (a)(1), (d). Pub. L. 102-572 substituted “United States Court of Federal Claims” for “United States Claims Court” wherever appearing.

1982—Subsec. (a)(1). Pub. L. 97-164, §161(10), substituted “Claims Court” for “Court of Claims”.

Subsec. (c). Pub. L. 97-164, §157, struck out “, or, in its discretion and in lieu of remand it may retain the case and take such additional evidence or action as may be necessary for final disposition of the case” after “with such direction as the court considers just and proper”.

Subsec. (d). Pub. L. 97-164, §160(a)(15), substituted “United States Claims Court” for “Court of Claims” in two places.

EFFECTIVE DATE OF 1994 AMENDMENT

For effective date and applicability of amendment by Pub. L. 103-355, see section 10001 of Pub. L. 103-355, set out as a note under section 251 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-572 effective Oct. 29, 1992, see section 911 of Pub. L. 102-572, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-164 effective Oct. 1, 1982, see section 402 of Pub. L. 97-164, set out as a note under section 171 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 603 of this title; title 5 section 9003; title 10 section 2410m; title 22 sections 3861, 3862; title 28 sections 1295, 1346, 1491.

**§ 610. Subpena, discovery, and deposition**

A member of an agency board of contract appeals may administer oaths to witnesses, authorize depositions and discovery proceedings, and require by subpena the attendance of witnesses, and production of books and papers, for the taking of testimony or evidence by deposition or in the hearing of an appeal by the agency board. In case of contumacy or refusal to obey a subpena by a person who resides, is found, or transacts business within the jurisdiction of a United States district court, the court, upon application of the agency board through the Attorney General; or upon application by the board of contract appeals of the Tennessee Valley Authority, shall have jurisdiction to issue the person an order requiring him to appear before the agency board or a member thereof, to produce evidence or to give testimony, or both. Any failure of any such person to obey the order of the court may be punished by the court as a contempt thereof.

(Pub. L. 95-563, §11, Nov. 1, 1978, 92 Stat. 2388.)

**§ 611. Interest**

Interest on amounts found due contractors on claims shall be paid to the contractor from the date the contracting officer receives the claim pursuant to section 605(a) of this title from the contractor until payment thereof. The interest provided for in this section shall be paid at the rate established by the Secretary of the Treasury pursuant to Public Law 92-41 (85 Stat. 97) for the Renegotiation Board.